IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IAN MOBLEY, KIMBERLY MOBLEY, PAUL KAISER, ANGIE WONG, JAMES WASHINGTON, NATHANIEL PRICE, JEROME PRICE, STEPHANIE HOLLANDER, JASON LEVERETTE-SAUNDERS, WANDA LEVERETTE, DARLENE HELLENBERG, THOMAS MAHLER, and LAURA MAHLER,

Case No. 10-cv-10675
Hon. Victoria Roberts

Plaintiffs,

v

CITY OF DETROIT, a municipal corporation, **Lieutenant VICKI YOST**, a Detroit police officer, in her individual capacity, **Sergeant DANIEL BUGLO**, a Detroit police officer, in his individual capacity, **Sergeant G. MCWHORTER**, a Detroit police officer, in his/her individual capacity, **Sergeant A. POTTS,** a Detroit police officer, in his/her individual capacity, **Sergeant CHARLES TURNER**, a Detroit police officer, in his individual capacity, **Officer M. BROWN**, a Detroit police officer, in his/her individual capacity, **Officer B. COLE**, a Detroit police officer, in his/her individual capacity, **Officer TYRONE GRAY**, a Detroit police officer, in his individual capacity, **Officer SHERON JOHNSON**, a Detroit police officer, in her individual capacity, **Officer K. SINGLETON**, a Detroit police officer, in his/her individual capacity, and **UNNAMED DETROIT POLICE OFFICERS**, in their individual capacities,

Defendants.

DEFENDANT DETROIT POLICE LIEUTENANT VICKI YOST'S AND DEFENDANT DETROIT POLICE SERGEANT DANIEL BUGLO'S *AMENDED* MOTION FOR SUMMARY JUDGEMENT AND BRIEF IN SUPPORT

Respectfully submitted,

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Dated: April 19, 2012

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STATEMENT OF ISSUE

Prevailing authorities provide that police officers are entitled to qualified immunity against constitutionally predicated claims so long as their conduct under the circumstances does not violate clearly established statutory or constitutional rights of which a reasonable officer would have known. Under the facts and circumstances concerning their involvement with Plaintiffs, are Yost and Buglo entitled to qualified immunity?

STATEMENT OF MOST CONTROLLING AUTHORITY

Qualified immunity is an affirmative defense that shields government officials in performing discretionary functions from liability for civil damages so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow* v *Fitzgerald*, 457 US 800 (1982); *Greene* v *Barber*, 310 F.3d 889, 894 (6th Cir. 2002).

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Defendants.

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DEFENDANT LIEUTENANT VICKI YOST'S AND DEFENDANT SERGEANT DANIEL BUGLO'S *AMENDED* MOTION FOR SUMMARY JUDGMENT

NOW COME, Detroit Police Lieutenant Vicki Yost and Detroit Police Sergeant Daniel Buglo, by and through the undersigned attorney, and for their Motion for Summary Disposition, states as follows:

1. On February 18, 2010, Plaintiffs filed this action against Defendants, including Detroit Police Lieutenant Vicki Yost and Detroit Police Sergeant Daniel Buglo, under 42 USC § 1983, claiming a violation of their constitutional rights under the Fourth and Fourteenth Amendment to the United States Constitution.

2. This matter arising out of the execution of a search warrant on May 31, 2008 at the Contemporary Art Institute of Detroit, 5141 Rosa Parks Blvd., in the City of Detroit.

3. The dispositive motion deadline is April 17, 2012.

4. Pursuant to FRCP 56, "...judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact that the moving party is entitled to judgment as a matter of law."

5. Qualified immunity is an affirmative defense that shields government officials in

performing discretionary functions from liability for civil damages so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

6. Defendants Yost and Buglo are entitled to qualified immunity under the circumstances.

7. On April 19, 2012, Defense counsel sought concurrence from Plaintiff's Counsel, Kathryn James in regard to the Motion for Summary Disposition.

WHEREFORE, Defendant Detroit Police Lieutenant Vicki Yost and Defendant Detroit Police Sergeant Daniel Buglo respectfully request that this Honorable Court enter an order for summary judgment and dismiss Plaintiffs' claims against them with prejudice.

Respectfully submitted,

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Dated: April 19, 2012

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DEFENDANT LIEUTENANT VICKI YOST'S AND DEFENDANT SERGEANT DANIEL BUGLO'S *AMENDED* BRIEF IN SUPPORT OFMOTION FOR SUMMARY JUDGMENT

NOW COME, Defendant Detroit Police Lieutenant Vicki Yost and Defendant Detroit Police Sergeant Daniel Buglo, by and through the undersigned attorney and for their Brief In Support of Motion for Summary Disposition, states as follows:

I. INTRODUCTION

On February 18, 2010, Plaintiffs filed this action against Defendants, including Detroit Police Lieutenant Vicki Yost and Detroit Police Sergeant Daniel Buglo under 42 USC § 1983 claiming a violation of their rights guaranteed under the Fourth and Fourteenth Amendments to the United States Constitution. Specifically, claiming unlawful detention, unreasonable search, malicious prosecution, unreasonable seizure of property, denial of due process, and excessive force.[1]

II. STATEMENT OF FACTS

The Detroit Police Department's Vice Enforcement Unit received complaints regarding illegal activity at 5141 Rosa Parks; the Contemporary Art Institute of Detroit ("CAID"). *(Exhibit A - Inspector Vicki L. Yost Deposition Transcript - pg. 41) (See Also Exhibit B - Sergeant Daniel Buglo Deposition Transcript - pgs. 30-31 and 66)*

[1]Count Two of the Complaint does not contain an excessive force claim against Yost or Buglo

Based upon the complaints, Lt. Vicki Yost ("Yost") and Sgt. Daniel Buglo ("Buglo") began an undercover operation to determine whether illegal activity was occurring at the location. *(See Exhibit A - pgs. 45-46)* In total, Yost and Buglo conducted four (4) surveillance, undercover operations at the CAID. *(See Exhibit A - pg. 33) (See Also Exhibit B - pgs. 24-25)*

The first surveillance occurred on March 29, 2008. At approximately 1:40 am, Yost and Buglo conducted surveillance to determine whether there was "blind pig activity" at the CAID. *(See Exhibit B - pg. 29)* Buglo described a blind pig as "...a place that served alcohol after hours that is unlicensed." Buglo also explained that there are times when prostitution, and gambling are part of a blind big activity. *(See Exhibit B - pg. 29)* Yost explained that a blind pig is an establishment where there is the illegal sale or consumption of alcohol without a license, sale of alcohol to minors, or sales of alcohol after 2:00 am. *(See Exhibit A - pg. 51)*.

On March 29, 2008, Yost and Buglo did not enter the CAID. At 1:40 am, the officers began their surveillance from their vehicle. *(See Exhibit B - pg. 33)* The officers parked on the east side of Rose Parks Blvd., directly across from the building in question. *(See Exhibit B - pg. 34)* The officers observed people arriving in cars and going into the building. *(See Exhibit B - pg. 34)* The officers noted a white male exited a vehicle, with what appeared to be fifth of liquor in his pants pocket. *(See Exhibit B - pg. 35) (See Also Exhibit A - pg. 31)* Yost testified that during the March 29, 2008 surveillance, she smelled Marijuana emanating from the location. *(See Exhibit A - pg. 31 and 59)*

The second undercover contact with the location occurred on April 26, 2012. *(See Exhibit B - pg. 39)*. At 1:00 am, Yost and Buglo entered the location to conduct surveillance. *(See Exhibit B - pg. 39 and 43*)

Buglo testified that when they entered the establishment, he was patted down by a heavyset man at the door. *(See Exhibit B - pgs. 39-40)* The officers paid a five dollar cover

charge. *(See Exhibit B - pg. 41)* The officers also paid three dollars for a one month membership. (Exhibit A – pg. 57) *(See Also Exhibit B - pg. 41)*

Buglo noted that the establishment was selling alcohol without a liquor license, which he believed to be illegal. *(See Exhibit B - pg. 43 and 47)* Prior to conducting surveillance, Yost contacted the Michigan Liquor Control Commission and was advised that the CAID did not have a liquor license. *(See Exhibit B - pgs. 44-45)*

The officers bought beer at the CAID's bar. They paid three dollars each for the beer. *(See Exhibit B - pg. 44)* Wine was also being sold. *(See Exhibit B - pg. 42)*

The officers walked through the inside of the establishment and then outside into the fenced-in portion of the property. *(See Exhibit B - pg. 45)*

Yost and Buglo joined patrons at a picnic table in the outside, fenced-in area. *(See Exhibit B - pg. 46)* One of the patrons produced a bag of Marijuana, rolled a cigarette, and passed it to the other persons at the table. *(See Exhibit B - pg. 46)*

At 2:20 am, Buglo purchased another beer from the bar. *(See Exhibit B - pg. 48)* The officers left the CAID at 2:30 am. When leaving, the officers noted that there were approximately ten people standing outside, in line to get into the CAID. *(See Exhibit B - pg. 49)*

On May 24, 2008 at 2:05 am, Buglo conducted surveillance from outside the CAID. *(See Exhibit B - pg. 71)* In reviewing the Anticipatory Search Warrant and Affidavit marked as *Exhibit C,* Buglo noted that he observed approximately 60 vehicles parked at the location, heard voices, and smelled "a strong order of marijuana on the south side of the location."

On or about May 29, 2008, Buglo submitted the Anticipatory Search Warrant to the Wayne County Prosecutor's office, along with the Affidavit. The affidavit outlined the illegal activity observed during the undercover operation at the CAID. *(See Exhibit C)* The Anticipatory

Search Warrant was signed by Wayne County Prosecutor DeYoung and Magistrate Lockhart at 36th District Court. *(See Exhibit B - pg. 65) (See Also Exhibit C)*

Prior to the May 31st surveillance/raid, Yost contacted the owner of the CAID, Aaron Timlin regarding the sale of alcohol at the CAID without a liquor license. *(Exhibit A – pg. 94)* Yost advised Timlin that the sale of alcohol at the Friday gatherings was illegal. Yost advised Timlin of the necessary steps that were required, if the CAID wanted to legally sell alcohol at the CAID. Yost advised Timlin to obtain a 24 hour license. *(Exhibit A – pg. 95)*[2] Had Timlin obtained the 24-hour license, the raid would not have occurred. *(Exhibit A – pg. 98)*

Timlin did not obtain a 24-hour license. Hence, the fourth undercover surveillance occurred on May 31, 2008.

Yost and Buglo again entered the CAID and paid the three dollar membership fee. *(See Exhibit B - pg. 57)* Buglo again purchased a beer. *(See Exhibit B -pg. 58)* The odor of Marijuana was present. *(See Exhibit B - pg. 58)*

At approximately 2:20 am, Yost called for the execution of the search warrant based upon the continued sell of alcohol after 2:00 am[3] and patrons loitering in a place of illegal occupation. *(See Exhibit A - pg. 84) (See Also Exhibit B - pg. 73 and 89)*

III. STANDARD OF REVIEW

In accordance with FRCP 56, any party may move for summary judgement on the ground there is no genuine issue of fact and, as a consequence, judgment is proper as a matter of law. Various matters in addition to the pleadings may be considered in connection with an FRCP 56 summary judgment motion. Such matters may include affidavits, depositions, answers to interrogatories, admissions, and oral testimony. FRCP 43(e)

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[2] Under the Michigan Liquor Control Code, a non-profit organization can obtain a 24 hour Special Liquor License for a one (1) day. Such licenses cannot exceed 12 per year. MCL 436.1111(10).

[3] Rule 436.1403(1) of the Michigan Liquor Control Commission prohibits the sell of alcohol between 2:00 am and 7:00 am on any day.

In deciding a FRCP 56 motion, the court must concern itself solely with the existence of any genuine issue of material fact. *Jaroslawicz* v *Seedman*, 528 F2d 727 (2d Cir 1975). The court is required to view the pleadings, the supporting matters, and all reasonable inference drawn therefrom in the light most favorable to the non-moving party. *Diebold* v *Civil Service Commission of St. Louis City*, 611 F2d 697 (8th Cit 1979); *Inland Oil and Transport Co* v *United States*, 600 F2d 725 (8th Cir 1979), cert den 444 US 991. All reasonable doubts regarding the existence of a genuine issue of material fact must be resolved in favor of the party opposing the motion. *United States* v *An Article of Food Consisting of 345/50 lb Bags*, 622 F2d 768 (5th Cir 1980). Consequently, when the pleadings, the supporting matters, and reasonable inferences demonstrate a material factual dispute, summary judgment is inappropriate. *Meredith* v *Hardy*, 554 F2d 764 (5th Cir 1977); *United States* v *Diebold*, 369 US 654, 88 SCt 993 (1962).

Regardless, summary judgment is appropriate in any civil action in which there is no genuine issue as to any material fact. Under such circumstances, the moving party is entitled to judgment as a matter of law.

Not every issue of fact or conflicting inference, however, presents a genuine issue of material fact requiring denial of an FRCP 56 summary judgment motion. *Anderson* v *Liberty Lobby*, 477 US 242, 106 SCt 2505, 91 Led2d 202 (1986). The substantive law governing the case will determine what issues are material, and any heightened burden of proof required by the substantive law must be satisfied by the opposing party. *Street* v *J.C. Bradford & Co.*, 886 F2d 1472 (6th Cir 1989); *Anderson* v *Liberty Lobby*, supra at 2510.

The party opposing an FRCP 56 motion must also adduce more than a mere scintilla of affirmative evidence to establish a material factual dispute. *Street v J.C. Bradford & Co.*, supra; *Anderson* v *Liberty Lobby, Inc*, supra; *Celotex Corp.*, v *Catrett*, 477 US 317, 106 SCt 2548, 91 L 2d 265 (1986); *Matsushita Electric Industrial Co., Ltd.* v *Zenith Radio Corp.*, 475 US 574, 106

Sct 1348, 89 L 2d 538 (1986). A simple showing of some degree of metaphysical doubt regarding the material facts is insufficient. *Street v J.C. Bradford & Co.*, supra at 1480; *Matsushita Electric Industrial Co.* v *Zenith Radio Corp*., supra at 1356.

Consequently, the test determining the propriety of an FRCP 56 motion is the same as that for a directed verdict motion. *Street* v *J.C. Bradford & Co.*, supra at 1479; *Anderson* v *Liberty Lobby*, supra at 2512. Specifically, where the record taken as a whole could not lead a rational trier of fact to find for the opposing party, there is no genuine issue for trial.

IV. STATEMENT OF ISSUE

> Prevailing authorities provide that police officers are entitled to qualified immunity against constitutionally predicated claims so long as their conduct under the circumstances does not violate clearly established statutory or constitutional rights of which a reasonable officer would have known. Under the facts and circumstances concerning their involvement with Plaintiffs, are Yost and Buglo entitled to qualified immunity?

V. LAW AND ARGUMENT

A. LAW

Qualified immunity is an affirmative defense that shields government officials in performing discretionary functions from liability for civil damages so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow* v *Fitzgerald*, 457 US 800 (1982); *Greene* v *Barber*, 310 F.3d 889, 894 (6th Cir. 2002).

The defendant bears the burden of pleading the defense. However, Plaintiff bears the burden of showing that a defendant's conduct violated "a right so clearly established that a reasonable official in his position would have clearly understood that he or she was under an affirmative duty to refrain from such conduct." *Rich* v *City of Mayfield Heights*, 955 F.2d 1092 (6th Cir. 1992)

The ultimate burden of proof is on the plaintiff to show that the defendant is not entitled to qualified immunity. *Wegener* v *Covington*, 933 F.2d 390, 392 (6th Cir. 1991)

Before this Court can determine whether a defendant is entitled to qualified immunity, the Court must first decide whether Plaintiffs state a valid claim pursuant to 42 USC § 1983. *Heggen* v *Lee*, 284 F.3d 675, 679 (6th Cir. 2002), following *Hall* v *Tolleett*, 128 F.3d 418, 422 (6th Cir. 1997).

When the defense is raised, courts use a two-step analysis to determine the merits of the defense. *Saucier* v *Katz*, 533 U.S. 194, 201 (2001)

The first question is whether the allegations of the complaint make out a violation of a right protected by the Constitution. If this question is answered in the negative, the action is dismissed and there is no need to consider the second question. If the first question is answered affirmatively, the Court must determine whether, assuming the truth of the factual allegations of the complaint, the right violated was so clearly established that any reasonable government official in the defendant's position would necessarily have realized that his or her actions violated that right. If the answer to this question is negative the action must be dismissed.

In considering the second question, the court must examine the asserted right "at a relatively high level of specificity." *Cope* v *Heltsley*, 128 F.3d 452, 458 (6th Cir. 1997) The right must have been "clearly established not just in an abstract sense but in a particularized sense." *Id*. at 458.

Qualified immunity claims are to be analyzed on a fact-specific, case-by-case basis to determine whether a reasonable official in the defendant's position could have believed that his conduct was lawful. *Id.* at 459. The burden of convincing the court that the law was clearly established under this particular set of circumstances "could have believed test is a burden that rests squarely on the plaintiff." *Id.* at 459.

To find a clearly established constitutional right, a district court within the Sixth Circuit must find binding precedent from the Supreme Court, the Sixth Circuit, or from itself. *Id.* at 459. Although decisions of other courts can clearly establish the law, such decisions must both point to the unconstitutionality of the conduct and be so clearly foreshadowed by applicable direct authority as to leave no doubt in the mind of a reasonable officer that his conduct was unconstitutional. *Id.* at 459. The Sixth Circuit Court of Appeals instructed in *Cope* that "...It is only in extraordinary cases that we can look beyond Supreme Court and Sixth Circuit precedent to find clearly established law. *Id.* at 459, n. 4.

During its consideration of the two (2) prong analysis, the Supreme Court is Saucier also added another element for the Court to consider. The Supreme Court indicated that when considering qualified immunity, Court's must acknowledge that "reasonable mistakes can be made as to the legal constraints on particular police conduct." *Saucier* at 205.

The Supreme Court stated that it is sometimes difficult for an officer to determine how the relevant legal doctrine will apply to to the factual situation the officer confronts. An officer might correctly perceive all the relevant facts but have a mistaken understanding as to the precise application of the legal doctrine to those facts. However, if the officer's mistake as to what the law requires is reasonable, the officer is entitled to qualified immunity. *Saucier* at 206.

B. ARGUMENT

Plaintiffs claim that Yost and Buglo violated their Fourth Amendment Constitutional rights. Plaintiffs claim that on May 31, 2008, they were unlawfully detained, unreasonably searched, maliciously prosecuted and their vehicles were unlawfully seized.

Plaintiffs also claim that their Fourteenth Amendment rights to due process were violated. Specifically, that Detroit City Code Section 38-5-1 and the Michigan Nuisance

Abatement statute were so vague and standardless that it should not have been enforced by Yost and Buglo on May 31, 2008.

In applying the two prong analysis outlined in *Saucier*, it must first be determined, taken in the most favorable light to Plaintiffs, whether a constitutional right was violated based upon the facts alleged. *Id.* at 201.

It is Yost's and Buglo's position that the facts alleged do not show a violation of a constitutional right.

Assuming the Court concludes otherwise, the Supreme Court in *Saucier* instructed that the Court must determine whether it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted. *See Also Wilson* v *Layne*, 526 US 603, 615, 119 S Ct 1692 (1999).

As stated above, Yost received complaints regarding illegal activity at 5141 Rosa Parks. *(See Exhibit A - pg. 41) (See Also Exhibit B - pgs. 30-31 and 66)* Yost and Buglo conducted four (4) surveillance, undercover operations at the CAID. *(See Exhibit A - pg. 33) (See Also Exhibit B - pgs. 24-25)* Prior to conducting surveillance, Yost learned from the Michigan Liquor Commission that the CAID did not have a liquor license. *(See Exhibit B - pgs. 44-45)*

During the April 26th, May 24th and the May 31st surveillance, Yost and Buglo observed beer and wine being sold after 2:00 am. The officers also saw and smelled Marijuana during their surveillance.

Moreover, Yost advised CAID owner, Timlin on how to come into compliance with the liquor law. However, Timlin ignored the advice.

After the officers completed the undercover operation, they believed that the had enough evidence to support their conclusion that probable cause existed that a crime was being

committed at 5141 Rosa Parks Blvd., i.e., the operation of a blind pig and persons loitering in a place of illegal occupation.

Buglo submitted a search warrant with supporting affidavit to the Wayne County Prosecutor's office. Magistrate Lockhart of 36th District signed the warrant.

After the execution of the search warrant, 134 patrons were detained and ticketed for loitering in a place of illegal occupation as prohibited by Detroit City Code Section 38-5-1. 43 vehicles were seized in accordance with the Michigan Nuisance Abatement Statute, being MCL 600.3801.

At the time of this incident, Detroit City Code Section 38-5-1 provided:

> Any person who shall ... loiter in a place of illegal occupation shall be guilty of a misdemeanor.

Even if the Court concludes that Detroit City Code Section 38-5-1 was flawed, the officers still could detain the patrons because under Michigan law a police officer must have probable cause to do so. Probable cause is defined as, the facts available to the officers at the moment of an arrest would justify a fair-minded person of average intelligence to believe that the suspected person has committed a crime. *People v Thomas*, 191 Mich App 576 (1991), appeal denied 439 Mich 981 (1992), certiorari denied 506 US 904 (1992).

Although Section 38-5-1 did not contain language regarding an individual having the "intent" to engage in an illegal occupation at the time of the incident involving the CAID, Buglo and Yost believed that it was common knowledge to persons residing in the State of Michigan that being in an unlicensed established where alcohol is being sold after 2:00 am is prohibited. *(See Exhibit A - pg. 81 and 85)* Hence, given this knowledge, a fair-minded person of average intelligence would believe that the patrons at the CAID, after 2:00 am on May 31, 2008 were loitering in a place of illegal occupation and knew or should have known that they were doing so.

Based upon their undercover surveillance activity, Yost and Buglo believed that probable cause existed that the owners of the CAID and the patrons were violating state law. The CAID was selling alcohol in violation of state law. It did not have a license to sale alcohol. It sold alcohol after 2:00 am. The patrons, who should have known that the sale of alcohol after 2:00 am is illegal in the State of Michigan, were loitering in a place of illegal occupation. *(Exhibit A – pg. 129-130)*

Yost also believed that any vehicle, which patrons used to transport themselves to the CAID to engage in illegal activity could be seized under the Michigan Nuisance Abatement statute, being MCL 600.3801. Yost testified that she reached this conclusion based upon her review of the statute and consultation with the Wayne County Prosecutor's office. *(Exhibit A – pg. 131)* Yost testified that she consulted with Brian Moody, Deputy Chief of the Wayne County Prosecutor's Forfeiture Unit and other assistant prosecutor's office regarding seizing vehicles under the nuisance abatement statute. *(Exhibit A – pg. 131)*

Yost's and Buglo's conduct was reasonable under the circumstances. They conducted four (4) separate undercover surveillance. Based upon this surveillance, they learned that the CAID was selling alcohol in violation of state law. The CAID was also selling alcohol after 2:00 am.

On May 31, 2008, patrons, including Plaintiffs were in the CAID, where liquor was being sold after 2:00 am. Plaintiffs knew or should have known that this activity was in violation of state of law. Hence, there was probable cause to believe that Plaintiffs were committing a crime.

Further, based upon the Nuisance Abatement statute and advice from the Wayne County Prosecutor's office, Yost and Buglo believed that the vehicles were seized in accordance with state law.

Even if the Court finds that Yost and Buglo made a mistake in regard to their analysis of the facts and the applicable law, their mistake was reasonable, and they are entitled to qualified immunity.

VI. CONCLUSION

Predicated upon the facts of the instant case, the legal principals set forth, and for the legal reasons set forth herein, Plaintiffs fail to set forth a genuine issue of material fact to establish a cause of action against Defendants Yost and Buglo as they are entitled to qualified immunity.

WHEREFORE, Detroit Police Lieutenant. Vicki Yost and Detroit Police Sergeant Daniel Buglo respectfully request that this Honorable Court grant their Motion for Summary Judgment and dismiss this action against them.

Respectfully submitted,

s/Lee'ah D. B. Giaquinto
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Date: April 19, 2012

CERTIFICATE OF SERVICE

Lee'ah D. B. Giaquinto, certifies that on April 19, 2012, she served a copy of **DEFENDANT LIEUTENANT VICKI YOST'S AND DEFENDANT SERGEANT DANIEL BUGLO'S MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT** and this **CERTIFICATE OF SERVICE** on the above-named attorney of record by electronically filing the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing. I declare that the statements above are true to the best of my information, knowledge, and belief.

Respectfully submitted,

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Dated: April 19, 2012